

## NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

### NOTICE OF FINAL RULEMAKING

#### TITLE 3. AGRICULTURE

#### CHAPTER 2. DEPARTMENT OF AGRICULTURE ANIMAL SERVICES DIVISION

#### PREAMBLE

**1. Sections Affected**

R3-2-701  
R3-2-702  
R3-2-703  
R3-2-703  
R3-2-704  
R3-2-705  
R3-2-706

**Rulemaking Action**

Amend  
Amend  
Repeal  
New Section  
Repeal  
Repeal  
Repeal

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 3-1203

Implementing statutes: A.R.S. §§ 3-1236, 3-1291, 3-1332, 3-1334, 3-1335, 3-1336, 3-1337, and 3-1346

**3. The effective date of the rules:**

April 6, 2003—When approved by the Council and sixty days after they are filed with the Office of the Secretary of State.

**4. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 8 A.A.R. 619, February 8, 2002

Notice of Proposed Rulemaking: 8 A.A.R. 4546, November 1, 2002

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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**6. An explanation of the rule, including the agency's reasons for initiating the rule:**

This rulemaking creates a mandatory program for livestock self-inspection, as authorized by A.R.S. § 3-1203(D), effective August 22, 2002. Previously, participation in self-inspection was voluntary. The rulemaking modifies the circumstances in which a Division employee will inspect livestock, based on the transfer of responsibility to dairies, feedlots, and producers through the mandatory self-inspection program. Seasonal self-inspection certificates for use at livestock exhibitions are also included as part of the mandatory program.

**7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

*A. The Arizona Department of Agriculture.*

The Department will incur modest expenses related to educating staff and the regulated community on the amendments and new sections. The Department will also incur the cost of creating, printing, and providing new application and certificate forms.

The release of Division staff from routine or duplicative livestock inspections will provide additional time for the Department to focus its efforts more significantly on the issues of animal health instead of livestock ownership.

*B. Political Subdivision.*

Other than the Department, no political subdivision is affected by this rulemaking.

*C. Businesses Directly Affected by the Rulemaking.*

Dairies, feedlots, and producers will be able to move their livestock under the mandatory self-inspection program more quickly than under a departmental inspection for those animals that will remain in-state. In-state private treaty sales are permitted under the mandatory program. They were not previously allowed under the voluntary program.

*D. Public.*

Seasonal self-inspection certificates for cattle, sheep, and goats will be issued directly by the Department. Previously, members of 4-H or FFA were required to transport their cattle, sheep, and goats to a location where a Department livestock inspector would issue the certificate. The 4-H or FFA holder of a certificate will now be required to forward the completed certificate to the Department at the end of the show season or upon sale or slaughter of the animal. This new practice will assist the Department with any necessary trace back or trace forward operation that could be necessitated by a disease outbreak.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Livestock inspection under R3-2-701(A) is modified to include Department inspection at a ranch if a change of ownership occurs with respect to range cattle.

Minor technical and grammatical changes have been made to the final rule based on suggestions from Department and G.R.R.C. staff.

**11. A summary of the comments made regarding the rule and the agency response to them:**

Clay Parsons, of the Marana Stockyard, called the Department and expressed concern regarding movement of cattle without regional livestock officers receiving immediate notice of a transaction. His concerns are fully addressed in the modification to the rule agreed to at the oral proceeding with representatives of the Arizona Cattle Growers' Association.

At the oral proceeding held on December 4, 2002, representatives of the Arizona Cattle Growers' Association provided the Department with a letter dated November 21, 2002. The Association requested language requiring the Department to be present to verify the transfer of cattle ownership at a ranch, in all circumstances. These inspections would assist to ensure that range cattle were in the possession of the rightful owner at the time of transfer. As proposed, the rule required the Department to be present to witness transfer of ownership if the cattle were being moved out-of-state. The Department does not believe that inclusion of this condition will add many additional inspections to the Division's workload and agreed to provide the requested assistance.

The Association also suggested a revised manner of charging for livestock self-inspection, moving from a per head charge to a charge for a self-inspection book. However, the per head charge is established in Title 3, and a legislative change would be necessary to revise the fee structure. The Department has agreed to review the associated statutes, but cannot address the issue in the current rulemaking.

The Arizona Department of Agriculture's Advisory Council met on December 12, 2002, and passed a motion supporting the rulemaking, as amended following the oral proceeding.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**13. Incorporations by reference and their location in the rules:**

None

**14. Was this rule previously made as an emergency rule?**

No

**15. The full text of the rules follows:**

**TITLE 3. AGRICULTURE**

**CHAPTER 2. DEPARTMENT OF AGRICULTURE  
ANIMAL SERVICES DIVISION**

**ARTICLE 7. LIVESTOCK INSPECTION**

Section

- R3-2-701. Department Livestock Inspection  
R3-2-702. Livestock Self-inspection  
R3-2-703. ~~Self-inspection for Cattle Destination~~ Seasonal Self-inspection Certificate  
R3-2-704. ~~Self-inspection for Pasture to Pasture~~ Repealed  
R3-2-705. ~~Self-inspection for Sheep~~ Repealed  
R3-2-706. ~~Self-inspection for Dairy Cattle or Cattle in Feedlots~~ Repealed

**ARTICLE 7. LIVESTOCK INSPECTION**

**R3-2-701. Department Livestock Inspection**

- A. A livestock officer or inspector shall inspect cattle at a ranch or feedlot, if the owner or agent is:
1. ~~Requesting the inspection;~~
  2. ~~Moving cattle out of state and retaining ownership;~~
  3. ~~Transferring the cattle ownership, whether in state or out of state, except as provided in R3-2-706(D);~~
  4. ~~Moving fresh branded or unbranded cattle not found with their mothers;~~
  5. ~~Slaughtering cattle at the owner's ranch or shipping them for slaughter to a custom exempt facility;~~
  6. ~~Moving breeding stock out of the feedlot.~~
- A Division employee shall inspect range cattle, as defined in R3-2-702(A), at a ranch if the owner or agent is:
1. Moving cattle out-of-state,
  2. Transferring cattle ownership, or
  3. Shipping cattle for custom slaughter.
- B. ~~A livestock officer or inspector~~ Division employee shall inspect cattle at a feedlot ~~or dairy~~ if:
1. ~~The livestock are breeding stock;~~
  2. ~~The owner or agent is transferring the cattle ownership, whether in state or out of state;~~
  3. ~~The cattle are being shipped for custom slaughter to a custom exempt facility.~~
- C. The Department shall not issue a self-inspection certificate to an owner, agent, or operator of a ranch, dairy, or feedlot if that individual has been convicted of a felony under A.R.S. Title 3 within the three-year period before the date on the self-inspection application. A Division employee shall inspect livestock if an applicant is denied self-inspection authority.

**R3-2-702. Livestock Self-inspection**

- A. ~~Any owner or operator of a ranching operation producing at least 5 cattle or 10 sheep, an inventoried dairy operation using at least 5 dairy cattle, or an inventoried feedlot operation moving at least 5 cattle per year to a state or federally inspected slaughter establishment or to a recognized Arizona livestock auction, may apply for a self-inspection certificate book or eab card, or both, to move livestock.~~

Definitions

"Description" means sex, breed, color, and markings, as applicable to the type of livestock.

"Exhibition" means an event including a fair, show, or field day that has as its primary purpose the opportunity for a member of a youth livestock organization, including 4-H and FFA, to display an animal raised by the youth in a judged competition.

"Identification" means brand, back tag number, ear mark, tattoo, metal eartag, plastic eartag, and premises identification number, as applicable to the type of livestock.

"Livestock" means cattle, sheep, and goats.

"Range" means every character of lands, enclosed or unenclosed, outside of cities and towns, upon which livestock is permitted by custom, license or permit to roam and feed. A.R.S. § 3-1201(7).

"Range cattle" means cattle customarily permitted to roam upon the ranges of the state, whether public domain or in private control, and not in the immediate actual possession or control of the owner although occasionally placed in enclosures for temporary purposes. A.R.S. § 3-1201(8).

**B. Application**

1. An owner of five or fewer head of livestock shall call the Department at (602) 542-6407 to request a self-inspection certificate. The owner shall provide answers to the questions in subsections (B)(2)(a) through (B)(2)(f) to a Depart-

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ment employee before a certificate will be provided.

2. An owner of six or more head of livestock and an owner or operator of a dairy or feedlot shall request a book of self-inspection certificates from the Department. The applicant shall submit a written application form obtained from the Department and provide the following information:
  - a. Name, mailing address, physical address, telephone number, and fax;
  - b. Name of ranch, dairy, or business and type of operation;
  - c. Social security or business tax identification number;
  - d. Whether the applicant has been convicted of a felony under A.R.S. Title 3 within the past three years, and if so, the case number, court, charge, and sentence;
  - e. Recorded brand and brand location;
  - f. Individual designated to sign self-inspection certificates, if applicable; and
  - g. Signature and date.
3. The holder of a self-inspection book shall advise the Department by phone within 30 days of any change to the information provided on an application form.
4. The holder of a self-inspection book shall renew registration with the Department every two years from the date the initial or renewal application form is signed.

**B.C. General self-inspection requirements: Self-inspection certificate**

1. An owner, agent, or operator shall provide the following information, as applicable, on a self-inspection certificate whenever livestock subject to self-inspection are moved or ownership is transferred:
  - a. Name, address, telephone number, and signature of the owner or agent;
  - b. Date of the shipment or transfer of ownership;
  - c. If moved, location from which and to which the livestock are moved, including the name of the auction, feedlot, arena, slaughter establishment, pasture, or other premises, and physical location;
  - d. Name of transporter;
  - e. Number, description, and identification of each sheep or goat as prescribed in R3-2-413;
  - f. Number, description, and identification of each calf, cow, heifer, steer, or bull and back tag numbers of culled dairy cattle;
  - g. Brand number and expiration date, if available, and brand location;
  - h. Name, address, and telephone number of buyer or agent, and signature if present at sale;
  - i. Number of head of cattle sold for which Beef Council fees are payable under A.R.S. §§ 3-1236 and 3-1238; and
  - j. Number of head of livestock for which an inspection fee is payable under A.R.S. § 3-1337(D).
- ~~1-2.~~ Except for pasture to pasture movement, when livestock are moved the owner or operator or owner's agent of livestock or the owner or operator of a dairy or feedlot shall complete a self-inspection certificate, except when livestock are subject to inspection by a Division employee under R3-2-701, and distribute it copies of the certificate as follows:
  - a. ~~The original~~ One copy and any fees that are owed under subsections (C)(1)(i) and (C)(1)(j) shall be sent to the Department within 10 days after the end of the month in which the livestock are moved or ownership is transferred; ;
  - b. ~~One copy~~ If the livestock are shipped, the original certificate shall accompany the livestock whenever they are in transit; and
  - c. ~~One one~~ copy shall be retained by the person transporting the livestock; and or
  - d. If ownership of the livestock is transferred without shipment, two copies shall be provided to the new owner or agent; and
  - e. ~~One one~~ copy shall be retained by the owner seller.
- ~~2-3.~~ A certificate may be used once to either transfer livestock ownership or to move livestock to a specific destination. If the livestock are diverted to a destination other than that stated on the self-inspection certificate, the certificate is void, and the The owner, agent, or operator shall complete and send a new certificate and send both the voided and new certificates to the Department within 10 days after the end of the month in which the certificates are issued or voided.
4. The An owner, agent, or operator shall use a self-inspection certificate only with a shipment of livestock bearing the brands matching the description for which the certificate is issued and only for the self-inspection issued date. If any of the information on the self-inspection certificate changes, the certificate is void and the owner, agent, or operator shall complete a new certificate.
- ~~3-5.~~ Any An altered, erased, completed but unused, or defaced self-inspection certificate is void. All A voided certificates certificate shall be returned to the Department within 10 days after the end of the month in which they are it is voided.
6. Upon request, unused certificates shall be returned to the Department by the owner, agent, or operator. If a recorded brand or dairy operation commercial operation licensed for self-inspection is sold, leased, or transferred, or otherwise disposed of, the owner, agent, or operator shall notify the Department and return all self-inspection certificates for that brand to the Department within 40 30 days of the transaction.

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- D.** Sale of livestock. A seller shall document a sale by completing a self-inspection certificate as prescribed in subsection (C) and providing a bill of sale to the purchaser as required under A.R.S. § 3-1291.
- E.** Feedlot receiving form
1. The operator of a feedlot shall document receipt of in-coming cattle on a form obtained from the Department. The operator shall include the following information on the form:
    - a. Name of feedlot and location;
    - b. Month and year for which report is made;
    - c. Number of cattle received, date received, and name and address of owner;
    - d. Description of the cattle;
    - e. If not Arizona native cattle, the import permit and health certificate numbers;
    - f. If native Arizona cattle, self-inspection form number or Department inspection certificate number; and
    - g. Pen number to which cattle are initially assigned.
  2. The operator shall return the completed form within 10 days after the end of the month of the reporting period.
- F.** Quarantine. Livestock under quarantine by the Department shall not be shipped or sold by use of a self-inspection certificate.
- G.** Violations. The Department shall process violations of this Section as prescribed under A.R.S. § 3-1203(D).
4. If livestock are moved in violation of this Article, a Department officer may issue a written warning or citation to the shipper, or the owner or agent, and direct that the livestock be returned to their owner within 24 hours, or if ownership is questioned, the improperly moved livestock may be seized under A.R.S. § 3-1371 by a Department officer.
  5. Any person moving livestock under this Article shall comply with A.R.S. Title 3, Chapter 11 and all applicable rules. Any violation of these laws or rules, or any commission of a crime involving livestock, is violation of this Section.
  6. If, after a hearing, the Department determines that there has been a violation of this Article, the Department may impose upon the violator the sanctions established in A.R.S. § 3-1203(D). The hearing shall be conducted under A.R.S. Title 41, Chapter 6, Articles 6 and 10 and all applicable rules.

**R3-2-703.      Self inspection for Cattle Destination Seasonal Self-inspection Certificate**

- A.** An owner or operator applying for a self-inspection certificate book for cattle movement shall obtain an application from the livestock officer or inspector and submit it with the following information to the Department:
1. The name, business or home address, telephone number, social security number, and signature of the applicant;
  2. The registered brand, brand location, ear marks, and brand number;
  3. The name of the registered brand owner;
  4. The date of the application; and
  5. The signature and badge number of the livestock officer or inspector assigned to the inspection area.
- B.** An owner or operator shall provide the following information on a self-inspection certificate whenever cattle are moved:
1. The name, address, telephone number, and signature of the owner;
  2. The date of the shipment;
  3. The location from which the cattle are being moved;
  4. The location to which the cattle are being moved, including the name of the auction, feedlot, or slaughter establishment;
  5. The number each of calves, cows, heifers, steers, and bulls being moved; and
  6. The brand number, expiration date, brand location, and ear marks.
- C.** Self-inspection procedures:
1. Except for cattle being moved to a feedlot, any person moving cattle shall move only cattle branded with the owner's recorded brand and the unweaned calves of cattle branded with the owner's recorded brand. Cattle without brands and cattle with unpeeled brands that are not with their mothers shall be moved only with Department inspection. Quarantined cattle, cattle held by order of the Department, or cattle restricted by the State Veterinarian shall not be moved.
  2. Cattle being moved shall not change ownership, shall be moved by a direct route to their destination, and shall be moved only as follows:
    - a. To an Arizona livestock auction bonded under the Federal Packers and Stockyards Act;
    - b. To a feedlot licensed and inventoried by the Department; or
    - c. To a state or federally licensed slaughter establishment.
- A.** Exhibition cattle, sheep, and goats
1. An applicant for a seasonal self-inspection certificate prescribed under A.R.S. § 3-1346 shall call the Department at (602) 542-6407 to request a seasonal self-inspection certificate. The applicant shall provide the answers to the following questions, as applicable:
    - a. Name, mailing address, physical address if different from mailing address, telephone number, and fax;
    - b. Name of 4-H or FFA group, and group leader;
    - c. Social security number;
    - d. Description and identification of the animal;
    - e. Permit number and health certificate number for an animal imported from another state; and

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- f. Name of seller and self-inspection certificate number for an animal purchased from an Arizona seller.
  2. The Department employee who records the information required in subsection (A)(1) shall advise the applicant of the required fee prescribed under A.R.S. § 3-1346(A). The Department shall issue a seasonal self-inspection certificate upon receipt of the fee.
  3. An exhibitor shall provide the following information, as applicable, on a seasonal self-inspection certificate whenever an animal subject to seasonal self-inspection is moved or ownership is transferred:
    - a. Name, address, telephone number, and signature;
    - b. Date of movement;
    - c. Name of exhibition and location;
    - d. Final disposition of the animal (sale, death, or retention) and date of occurrence; and
    - e. If the animal is sold, name of purchaser (person or slaughter plant).
  4. The holder of a seasonal self-inspection certificate shall return the certificate to the Department within two weeks of the sale or slaughter of the animal or at the end of the show season if the animal is retained.
- B.** Exhibition swine. The requirements prescribed at R3-2-411 apply to exhibition swine.

**R3-2-704. Self-inspection for Pasture to Pasture Repealed**

- A.** ~~An owner or operator applying for a cab card for pasture to pasture movement shall obtain an application from the livestock officer or inspector and submit it with the following information to the Department:~~
1. ~~The name, business or home address, telephone number, social security number, and signature of the applicant;~~
  2. ~~The registered brand;~~
  3. ~~The name of the registered brand owner;~~
  4. ~~The date of the application; and~~
  5. ~~The signature and badge number of the livestock officer or inspector assigned in the inspection area.~~
- B.** ~~Self-inspection procedures:~~
1. ~~Pasture to pasture movement within the ranching operation's inspection district. Any owner or operator moving cattle from noncontiguous pastures or allotments on the same ranching operation within the inspection district shall be issued a cab card authorizing the movement of cattle at the owner's or operator's discretion.~~
  2. ~~Pasture to pasture movement outside the inspection district.~~
    - a. ~~Any owner or operator moving cattle from noncontiguous pastures or allotments on the same ranching operation but outside the inspection district shall, on or before the date the cattle are being moved, call the Department dispatch office for an authorization number. The authorization number is valid only for the requested day of movement.~~
    - b. ~~The Department dispatch employee shall record the information on the Notice of Cattle Movement form and notify the livestock officer or inspector in both the district of origin and the destination district.~~

**R3-2-705. Self-inspection for Sheep Repealed**

- A.** ~~An owner or operator applying for a self-inspection certificate book for sheep movement shall obtain an application from the livestock officer or inspector and submit it with the following information to the Department:~~
1. ~~The name, business or home address, telephone number, social security number, and signature of the applicant;~~
  2. ~~The date of the application; and~~
  3. ~~The signature and badge number of the livestock officer or inspector assigned in the inspection area.~~
- B.** ~~An owner or operator shall provide the following information on a self-inspection certificate whenever sheep are being moved:~~
1. ~~The name, business or home address, telephone number, and signature of the owner;~~
  2. ~~The date of the shipment.~~
  3. ~~The name, address, and telephone number of the person purchasing the sheep, if applicable;~~
  4. ~~The location from which the sheep are being moved;~~
  5. ~~The name of the trucker;~~
  6. ~~The location to which the sheep are being moved, including the name of the pasture, auction, exhibit, or slaughter establishment;~~
  7. ~~The number of sheep being moved; and~~
  8. ~~The brand location and ear marks.~~

**R3-2-706. Self-inspection for Dairy Cattle or Cattle in Feedlots Repealed**

- A.** ~~An owner or operator applying for a self-inspection certificate book for the movement of dairy cattle or cattle in a feedlot shall obtain an application from the livestock officer or inspector and submit it with the following information to the Department:~~
1. ~~The corporate, business, or trade name and permit number of the applicant;~~
  2. ~~The date of the application;~~
  3. ~~The signature, social security number, and title of the owner.~~
- B.** ~~An owner or operator or a dairy shall provide the following information on a self-inspection certificate whenever dairy~~

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cattle or cattle in feedlots are moved:

1. The name of the owner;
  2. The date of the shipment;
  3. The back tag numbers, if applicable;
  4. The location from which the dairy cattle or cattle in feedlots are being moved;
  5. The name of the auction, feedlot, or slaughter establishment to which the dairy cattle or cattle in feedlots are being moved;
  6. The number of dairy cattle or cattle in feedlots being inspected, the cost of the inspection, and the beef council fees; and
  7. The signature of the dairy representative authorized by the owner.
- C.** An owner or operator of a feedlot shall provide the following information on a self-inspection certificate whenever cattle in feedlots are moved:
1. The name of the seller or owner;
  2. The date of the shipment;
  3. The location, including the county, from which the cattle are being moved;
  4. The name of the trucker;
  5. The destination of the cattle, including the name of the feedlot or the slaughter establishment;
  6. The name of the consignee;
  7. The brand and number each of cows, heifers, steers, and bulls being moved;
  8. The number of cattle being inspected, the cost of the inspection, and the beef council fees; and
  9. The signature of the feedlot representative authorized by the owner.
- D.** An owner or operator of a dairy may sell calves 30 days or younger on a self-inspection certificate by providing the following information:
1. The address and telephone number of the purchaser;
  2. The date and location of the sale;
  3. The number of calves being sold;
  4. The cost of the inspection and the beef council fees; and
  5. The signature of the dairy representative authorized by the owner.

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**TITLE 3. AGRICULTURE**

**CHAPTER 9. DEPARTMENT OF AGRICULTURE  
AGRICULTURAL COUNCILS AND COMMISSIONS**

**PREAMBLE**

**1. Sections Affected**

Chapter 9  
Article 4  
R3-9-401  
R3-9-402  
R3-9-403  
R3-9-404  
R3-9-405

**Rulemaking Action**

Amend  
New Article  
New Section  
New Section  
New Section  
New Section  
New Section

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 3-553(A)(2)

Implementing statute: A.R.S. § 3-553

**3. The effective date of the rules:**

February 5, 2003—When approved by the Council and filed with the Office of the Secretary of State. An immediate effective date is requested. These rules provide a benefit to the public, and a penalty is not associated with a violation as prescribed under A.R.S. § 41-1032(A)(4). These rules detail the operation of the Commission, further expanding upon information included in statute.

Notices of Final Rulemaking

**4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 8 A.A.R. 4010, September 20, 2002

Notice of Proposed Rulemaking: 8 A.A.R. 4340, October 18, 2002

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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**6. An explanation of the rule, including the agency's reasons for initiating the rule:**

This rulemaking establishes procedures for governance of the Commission as prescribed under A.R.S. § 3-553.

**7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

*A. The Arizona Wine Commission and the Arizona Department of Agriculture.*

The Commission and the Department will incur modest expenses related to educating the regulated community on the new Sections.

*B. Political Subdivision.*

Other than the Commission and the Department, the Office of Administrative Hearings may be affected by this rulemaking if a hearing is requested.

*C. Businesses Directly Affected by the Rulemaking.*

Wine producers, growers, wholesalers, and retailers are the beneficiaries of the marketing, research, and education initiatives undertaken by the Commission.

The regulated community the Commission serves, and their attorneys, will be beneficially affected by the use of the uniform administrative procedures of the Office of Administrative Hearings.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Minor technical and grammatical changes were made in response to suggestions from Department and Council staff.

**11. A summary of the comments made regarding the rule and the agency response to them:**

No comments were received regarding the rulemaking.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**13. Incorporations by reference and their location in the rules:**

None

**14. Was this rule previously made as an emergency rule?**

No

**15. The full text of the rules follows:**

TITLE 3. AGRICULTURE

CHAPTER 9. DEPARTMENT OF AGRICULTURE  
AGRICULTURAL COUNCILS AND COMMISSIONS

ARTICLE 4. ARIZONA WINE COMMISSION

Section

<u>R3-9-401.</u>	<u>Definitions</u>
<u>R3-9-402.</u>	<u>Elections</u>
<u>R3-9-403.</u>	<u>Hearings</u>
<u>R3-9-404.</u>	<u>Producer List</u>
<u>R3-9-405.</u>	<u>Records</u>

ARTICLE 4. ARIZONA WINE COMMISSION

**R3-9-401.**      **Definitions**

In addition to the definitions in A.R.S. § 3-551, the following term applies to this Article:

“Department” means the Arizona Department of Agriculture.

**R3-9-402.**      **Elections**

- A.** The Commission shall elect officers during the first quarter of each calendar year.
- B.** Officers shall continue in office until the next annual election is held.
- C.** An officer may be successively reelected.

**R3-9-403.**      **Hearings**

- A.** The Commission shall use the uniform administrative procedures of A.R.S. Title 41, Chapter 6, Article 10 to govern any hearing before the Commission.
- B.** A party may file a motion for rehearing or review under A.R.S. § 41-1092.09.
- C.** The Commission shall grant a rehearing or review of an administrative law decision for any of the following causes materially affecting the moving party’s rights:
  - 1.** The decision is not justified by the evidence or is contrary to law;
  - 2.** There is newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original proceeding;
  - 3.** One or more of the following deprived the party of a fair hearing:
    - a.** Irregularity or abuse of discretion in the conduct of the proceeding;
    - b.** Misconduct of the Commission, the administrative law judge, or the prevailing party; or
    - c.** Accident or surprise that could not have been prevented by ordinary prudence; or
  - 4.** Excessive or insufficient sanction.
- D.** The Commission may grant a rehearing or review to any or all of the parties. The rehearing or review may cover all or part of the issues for any of the reasons stated in subsection (C). An order granting a rehearing or review shall particularly state the grounds for granting the rehearing or review, and the rehearing or review shall cover only the grounds stated.

**R3-9-404.**      **Producer List**

The Commission shall create an Arizona Wine Producers List as prescribed under A.R.S. § 3-553(7). The Commission shall update the list annually, by June 30.

**R3-9-405.**      **Records**

The Department shall retain the Commission’s records as authorized by A.R.S. § 3-554. A record may be reviewed at the Department’s main office, Monday through Friday, except an Arizona legal holiday, during the hours of 8:00 a.m. to 5:00 p.m. A copy of a record shall be provided according to the provisions of A.R.S. § 39-121 et seq.